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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,409	12/04/2006	Toshimi Hirata	KOIKE-01400	7546
28960	7590	10/03/2007		
HAVERSTOCK & OWENS LLP 162 N WOLFE ROAD SUNNYVALE, CA 94086			EXAMINER SHALLENBERGER, JULIE A	
			ART UNIT 2885	PAPER NUMBER
			MAIL DATE 10/03/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/574,409

Applicant(s)

HIRATA, TOSHIMI

Examiner

Julie A. Shallenberger

Art Unit

2885

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on claims submitted 3/30/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/30/06 & 6/30/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed 3/30/06 and 6/30/06 fail to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Objections

Claim 4 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 10 is objected to because "supports" lacks antecedent basis.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herold (6,726,350) in view of Morrison (6,241,362).

Herold teaches an illumination device with a light source 50, a light stand 72 including a torch portion (figure 3) having installed integrally thereto a light source support 72, 80, a base portion 76 supporting the LED in an upright position, a cap-shaped light scattering member 46, 56 removably fitted to the light source support, a cylindrical transparent shade member 12 installed around the lighting stand which includes a cap 16 (cl. 3), a diffusing member 24 removably installed inside the shade member, which has elasticity for radial spread out from a rolled up state and can be removably attached over the inner surface of the shade member (cl.7), but lacks the teaching of a control circuit and a plurality of light sources in this embodiment.

Herold teaches a plurality of LEDs and a control circuit in the embodiment shown in figure 6.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use multiple LEDs and a control circuit as shown in figure 6 with the embodiment shown in figure 3 in order to provide a stable structure for the lighting

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device which can operate one LED, three LEDs at once, or a sequence of LEDs, as desired for the intended purpose of using the device.

In regard to the stand 72, the definition of a stand is "a framework on or in which articles are placed for support" (www.dictonary.com).

In regard to claim 5, the applicant is advised that it has been held by the courts that differences in dimensions do not amount to patentability where such differences do not affect the operation of the prior art device. *In Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984),

In regard to claim 6, the Led is disposed higher than half the height of the shade member.

It is noted that the height of the shade member is not defined as being relative to any other structure in the device and therefore it is left open to broader interpretation.

Alternatively, claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herold (6,726,350) in view of Gabor (2004/0179355).

Herold teaches the invention described above, but lacks the teaching of the light sources being disposed at a level higher than half the height of the shade member.

Gabor teaches LEDs disposed higher than half the height of a shade member 10

It would have been obvious to one of ordinary skill in the art at the time the invention was made to install the lights higher as taught by Garbor in order for more of the light to illuminate out of the sides and evenly (up/down) throughout the shade.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herold (6,726,350) in view of Toshima (5,852,514).

Herold teaches the invention described above, but lacks the teaching of the shielding member having a diffusing layer formed thereon by coating a transparent resin film as a substrate with a resin.

Toshima teaches a diffusing layer 2 formed thereon by coating a transparent resin film 1 as a substrate with a resin.

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herold (6,726,350) in view of Brown (6,575,613).

Herold teaches the invention described above, but lacks the teaching of the light support being divided by separators wherein the light sources are provided at different levels on the light source supports.

Brown teaches a light support 12 being divided by separators 32 wherein the light sources are provided at different levels on the light source support.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the light source support with separators and varying heights in order to create the desired aesthetic lighting effect within the lighting device.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

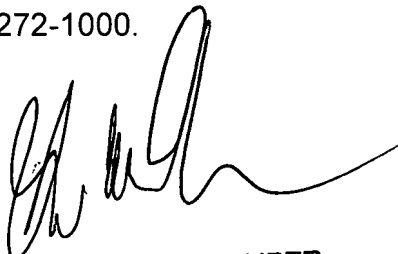
Morrison (6,241,362) and Foley (6,550,936) teach similar illumination devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie A. Shallenberger whose telephone number is (571)272-7131. The examiner can normally be reached on Monday - Friday 830-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Sember can be reached on 571-272-2381. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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THOMAS M. SEMBER
PRIMARY PATENT EXAMINER